

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

OCT 30 1997

In the Matter of)
)
Preemption of State and Local) MM Docket No. 97-182
Zoning and Land Use Restrictions)
on the Siting, Placement and)
Construction of Broadcast Station)
Transmission Facilities)

COMMENTS OF THE CELLULAR PHONE TASKFORCE

Among all federal objectives, that of protecting the public health and welfare is paramount, and indeed is the foremost reason for the existence of government at all. The allegations of the Cellular Phone Taskforce¹⁻¹⁶ and of the Electrical Sensitivity Network^{17,18} that microwave radiation in general, and pulsed radiation in particular, are injuring

¹ Petition for Reconsideration, ET Docket No. 93-62, Aug. 30, 1996

² Reply to Comments of AT&T Wireless Services, Inc., ET Docket No. 93-62, Oct. 15, 1996

³ Complaint of discrimination on the basis of handicap, Feb. 2, 1997

⁴ Petition for Reconsideration, ET Docket 93-62, Feb. 17, 1997

⁵ Comment on CTIA's Petition for Declaratory Ruling, DA 96-2140, Feb. 26, 1997

⁶ Comment on the second set of joint preliminary draft proposals for WRC-97, March 23, 1997

⁷ Reply to Comments of Ameritech Mobile Communications, Inc., ET Docket 93-62, April 4, 1997

⁸ Reply to Comments of AT&T Wireless Services, Inc., ET Docket No. 93-62, April 7, 1997

⁹ Petition for Partial Reconsideration, IB Docket No. 95-91, April 9, 1997

029

and killing large numbers of citizens and irreperably damaging the environment because of the speedy rollout of new technologies which the Congress has mandated and the Commission is aggressively implementing, must, if true, supersede any interest anybody has in converting analog communication systems to digital. It has never been the policy of the United States government that human beings are expendable. Indeed the voluntary taking of human life, by direct or indirect consequence of actions, is the most serious crime recognized in our society. The Commission and the telecommunications industry have been aware of our allegations since August 30, 1996. The Commission's only

¹⁰ Comments on Further Notice of Proposed Rulemaking, IB Docket No. 95-91

¹¹ Reply to Oppositions, IB Docket No. 95-91, May 16, 1997

¹² Comments on Proposed Rule, IB Docket No. 97-95, April 28, 1997

¹³ Reply Comments, RM-9096, Aug. 9, 1997

¹⁴ Comment to the Petition for Declaratory Ruling of the Cellular Telecommunications Industry Association, DA 96-2140, Sept. 9, 1997

¹⁵ Appeal of the denial of Complaint of Discrimination on the Basis of Handicap, Oct. 6, 1997

¹⁶ Comments, WT Docket No. 97-197, Oct. 6, 1997

¹⁷ Attachment to Reply to Comments of AT&T Wireless Services, Inc., ET Docket No. 93-62, Oct. 15, 1996

¹⁸ Reply Comments, RM-9096, Aug. 15, 1997

response thus far has been a denial of jurisdiction^{19,20} and a failure to refer the matter to the appropriate health and environmental agencies as required by law--required because the whole basis of the preemption powers claimed by the Commission is the possession of such jurisdiction, according to Section 704(a) and (b) of the Telecommunications Act of 1996.

The speedy rollout of national digital television broadcast service must therefore be immediately halted because it conflicts with more important federal objectives, namely the protection of the health of the citizenry. The preemptions requested by the National Association of Broadcasters and the Association for Maximum Service Television and proposed by the Commission must be denied in their totality.

¹⁹ "Since the FCC is not a health and safety agency, we have neither the jurisdiction or the resources to investigate the biological effects you describe. We must rely upon the agencies mentioned above for advice and guidance in such areas." - Letter from Robert F. Cleveland, Jr., Office of Engineering & Technology, to Lucinda Grant, Electrical Sensitivity Network, Jan. 23, 1997, attached as Exhibit A to the Cellular Phone Taskforce's Comments in WT Docket No. 97-197, Oct. 6, 1997.

²⁰ "We reiterate that these guidelines are based on recommendations of expert organizations and federal agencies with responsibilities for health and safety." - Paragraph 31 of the Second Memorandum Opinion and Order in ET Docket No. 93-62, Aug. 25, 1997

Respectfully submitted,

A handwritten signature in cursive script, reading "Arthur Firstenberg". The signature is written in dark ink and is positioned above a horizontal line.

Arthur Firstenberg
President, Cellular Phone Taskforce
Post Office Box 100404
Vanderveer Station
Brooklyn, New York 11210
(718) 434-4499

October 28, 1997